IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 18659 of 2004

Between:

M/s New Dhiraj Industries, 15--9-28, Mukhityar Gunj, Hyderabad- 500 012,
rep. by its Partner Sri Ajay Kumar.

..... PETITIONER

AND

1 The Commercial Tax Officer, Maharajgunj Circle, Hyderabad.
2 The Commercial Tax Officer (FAC), Osmangunj Circle,

Hyderabad.
3 The Deputy Commissioner (CT), Charminar Division,

Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction particularly one in the nature of Writ of Mandamus directing the second respondent to refund the tax amount of Rs. 1,16,946/- collected for the year 2003-2004 and Rs. 6,461/- for the year 2004-2005 and Rs. 16,946/- collected as compounding fee for the year 2003-04

Counsel for the Petitioner: MR.S.KRISHNA MURTHY

Counsel for the Respondents: Mr.K.Raji Reddy, special standing counsel for commercial tax.

The Court at the stage of admission made the following :

<u>ORAL ORDER</u>: (per Sri BRSR.J)

The subject matter that arises for consideration in this writ petition is squarely covered by the decision rendered by this Court in ***AMBICA LAMP HOUSE, RAJAHMUNDRY Vs. CTO (INT) –1 ENFORCEMENT, HYDERABAD***. Following the said judgment, this writ petition is disposed of in terms of the same judgment.

In the counter affidavit filed by the Commercial Tax Officer, Osmanganj Circle, the 2nd respondent herein it is inter alia stated that subsequent to passing of the order dated 5.6.2004, the cheque given by the petitioner was sent to the bank for clearance and the same was returned unpassed on the ground of instructions from the petitioner to stop payment. It is however stated that subsequently 'the petitioner paid the above amount by Demand Draft".

In such view of the matter, the amount realised by the respondents under the said demand draft is required to be returned to the petitioner. Accordingly, there shall be a direction to return the amount by way of adjustment towards the tax if any payable by the petitioner or in future tax as the case may be. The material or the evidence, if

any collected by the respondents during the course of such inspection can always be utilized for proceeding further in the matter in accordance with the provisions of the Act and the Rules framed there under.

(B.SUDERSHAN REDDY,J)

dated 29.4.2005

(C.V.RAMULU,J)

msv.

To

1 The Commercial Tax Officer, Maharajgunj Circle, Hyderabad.
2 The Commercial Tax Officer (FAC), Osmangunj Circle,

Hyderabad.
3 The Deputy Commissioner (CT), Charminar Division,

Hyderabad.

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